

REMARKS

Claims 1-10 were pending in this Application as of the Office Action of November 9, 2007. Claim 10 has been cancelled with this Response. Replacement Drawing Sheets are also included with this Response. Though no amendments have been made to the claims, Applicant respectfully submits the above claim listing for the Examiner's convenience. Applicant also notes that the Specification has been amended as shown above.

No new matter has been introduced by these amendments. Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and the following remarks.

Drawing Objections

The Examiner has objected to the Drawings for various informalities. Applicant respectfully submits Replacement Drawing Sheets 1-8 to overcome these objections.

Specification Objections

The Examiner has objected to the Specification for not providing antecedent basis for the "frictional engagement" recited in claim 10. In response, Applicant respectfully cancels claim 10.

Claim Rejections Under 35 U.S.C. §112, second paragraph

The rejects claim 10 under 35 U.S.C. §112, second paragraph. In response, Applicant respectfully cancels claim 10.

Claim Rejections Under 35 U.S.C. §102

Claims 1-5 and 9-10 are rejected as being anticipated under 35 U.S.C. 102(b) by Tripp, U.S. Patent No. 6,186,960 (hereinafter "Tripp"). Applicant respectfully traverses.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicant's claims 1 and 9 recites, *inter alia*,

"at least one finger member that engages relative to the housing to retain the needle holder to the housing, the finger member being deflectable between a locking position where the finger member retains the needle holder to the housing, and a release position where the needle holder can be retracted into the housing."

Applicant first asserts, respectfully, that Tripp does not teach a "finger member." Instead of teaching a finger member, referring to Figure 1, Tripp teaches a release ring 16. Though the Examiner appears to equate Applicant's recited finger member with this ring 16 (see page 6 of the Office Action) Applicant respectfully asserts that a "finger" member would be in no way analogous to a ring. For at least this reason, Tripp does not teach every element of Applicant's claims 1 and 9.

Furthermore, the release ring 16 taught in Tripp does not "engage relative to the housing," as is recited in Applicant's claims 1 and 9. Instead, referring to Figures 1-2 is simply sandwiched between the needle holder and housing. Still further, claims 1 and 9 recite the finger member to be "deflectable between a locking position where the finger member retains the needle holder to the housing, and a release position where the needle holder can be retracted into the housing." Applicant respectfully notes that the term deflectable is defined to mean "capable of being bent or turned aside. However, instead of being deflectable, Applicant respectfully asserts that the entire release ring 16 of Tripp is taught to be pushed to the front of the housing by the blood collection device (see Figure 7). For at least these additional reasons, Tripp does not teach every element of Applicant's claims 1 and 9.

Applicant further notes that the device of Applicant's claims provides a number of significant advantages over the device taught in Tripp. Firstly, once the needle of Tripp has been retracted (see Figure 7), the tube 60 is not secured within the tube holder. On the contrary, the tube may be removed from the tube holder, and the retracted needle may be removed from the tube. Thus, the device disclosed by Tripp provides no particular protection to the user from

needle-stick injury. By contrast, when the needle of Applicant's claims is retracted (see Applicant's Figure 5), the blood collection tube 46 is still in engagement with the housing, eliminating any likelihood that a user may suffer from a needle-stick injury. We submit that this is a significant advantage over the device disclosed by Tripp.

Accordingly, Applicants respectfully submit that for at least the reasons set forth hereinabove, Claims 1-5 and 9-10 are not anticipated by Tripp. Reconsideration and allowance of Claims 1-5 and 9-10 are respectfully requested.

Claim Rejections Under 35 U.S.C. §103

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being obvious over Tripp in view of Kaufhold, U.S. Patent No. 5,000,736 (hereinafter "Kaufhold"), Daley, U.S. Patent No. 6,572,565 (hereinafter "Daley"), and Vallenlunga, U.S. Patent No. 5,352,203 (hereinafter "Vallenlunga") respectively.

To establish a *prima facie* case of obviousness, it is known that three basic criteria must be met: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference(s) must teach or suggest all the claim limitations. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d 1016, 1023 (Fed. Cir. 1996).

Dependent claims inherit all of the limitations of the parent claim. Claims 6-8 depend from Claim 1. As discussed above, Trip does not disclose all of the elements recited in amended Claim 1. None of Kaufhold, Daley, or Vallenlunga, taken alone or together, remedy the deficiencies of Trip. Therefore, any proposed combination of Tripp, Kaufhold, Daley, or Vallenlunga *does not teach or suggest all of the limitations* of at least Claims 6-8. Thus, *prima facie* obviousness does not exist regarding Claims 6-8 with respect to any proposed combination of Tripp, Kaufhold, Daley, or Vallenlunga.

Additionally, since any proposed combination of Tripp, Kaufhold, Daley, or Vallenlunga fails to teach or suggest all of the limitations of Claims 6-8, clearly, one of ordinary skill at the time of Applicant's invention would not have a motivation to modify or combine the references, nor a reasonable likelihood of success in forming the claimed invention by modifying or combining the references. Thus, here again, *prima facie* obviousness does not exist.

Accordingly, Applicants respectfully submit that for at least the reasons set forth hereinabove, Claims 6-8 are not obvious over any proposed combination of Tripp, Kaufhold, Daley, or Vallenlunga. Reconsideration and allowance of Claims 6-8 are respectfully requested.

Conclusion

All of the objections and rejections are herein overcome. In view of the foregoing, it is respectfully submitted that the instant application is in condition for allowance. No new matter is added by way of the present Amendments and Remarks, as support is found throughout the original filed specification, claims and drawings. Prompt issuance of Notice of Allowance is respectfully requested.

The Examiner is invited to contact Applicants' attorney at the below listed phone number regarding this response or otherwise concerning the present application.

Applicants hereby petition for any necessary extension of time required under 37 C.F.R. 1.136(a) or 1.136(b) which may be required for entry and consideration of the present Reply.

If there are any charges due with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

Respectfully submitted,

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Date: February 6, 2008